

SOUTH CAROLINA PUBLIC SERVICE COMMISSION

HEARING OFFICER DIRECTIVE

DOCKET NOS. [2017-370-E](#), [2017-207-E](#), and [2017-305-E](#) ORDER NO. 2018-146-H

OCTOBER 16, 2018

David Butler
Hearing Officer

DOCKET DESCRIPTION:

Docket No. 2017-370-E – Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Incorporated for Review and Approval of a Proposed Business Combination between SCANA Corporation and Dominion Energy, Incorporated, as May Be Required, and for a Prudency Determination Regarding the Abandonment of the V.C. Summer Units 2 & 3 Project and Associated Customer Benefits and Cost Recovery Plans

Docket No. 2017-207-E – Friends of the Earth and Sierra Club, Complainant/Petitioner v. South Carolina Electric & Gas Company, Defendant/Respondent

Docket No. 2017-305-E – Request of the Office of Regulatory Staff for Rate Relief to South Carolina Electric & Gas Company's Rates Pursuant to S.C. Code Ann. § 58-27-920

MATTER UNDER CONSIDERATION:

Request of Friends of the Earth/Sierra Club for a Discovery Conference

HEARING OFFICER ACTION:

Counsel for Friends of the Earth/Sierra Club (“FOE/SC”) has requested a discovery conference to address unresolved disputes between it and SCE&G. FOE/SC states *inter alia* that SCE&G has continued its refusals to produce relevant documents, notwithstanding Motions to Compel and prior Directives. FOE/SC also states that SCE&G designates matters as confidential when such is not warranted, and therefore makes said documents unavailable for viewing and use in preparation for impending hearings. FOE/SC also notes, however, that SCE&G has withdrawn confidential designations from some documents and commits to a further review of other documents. In response to this request, this Hearing Officer noted that a Directive had been issued with regard to confidentiality of SCE&G

documents and SCE&G had been given until October 22, 2018 to make determinations on the public nature of up to a total of 10,000 documents. This Hearing Officer requested that FOE/SC examine the documents that SCE&G released as a result of the Directive and make a determination as to whether a discovery conference was still needed. FOE/SC then stated in a separate e-mail that few of the documents cited appeared to be responsive to FOE/SC discovery requests, and FOE/SC renewed its request for a discovery conference without waiting to review the documents to be released by SCE&G. Counsel for South Carolina Electric and Gas ("SCE&G") supported its prior statement that it was performing a document review, which would soon be completed. This Hearing Officer reiterated that FOE/SC should wait until SCE&G's document review was completed on October 22, 2018 and see if any of the released material was responsive to the request. FOE/SC then asked that SCE&G be ordered to submit the responsive materials for in camera review. Among other things, SCE&G reiterated its request that FOE/SC wait until the document review was completed on October 22, 2018.

I agree with SCE&G. In camera review is not useful as long as SCE&G is still performing its document review. Until that is completed, no one has any way of knowing whether any of the documents under consideration are relevant to the FOE/SC discovery requests or not. Accordingly, I hold that FOE/SC must wait until SCE&G completes its document review on October 22, 2018. If FOE/SC deems it appropriate on or after October 22, 2018, FOE/SC may renew its request for a discovery conference. If it does so, however, FOE/SC must designate the specific discovery requests to which SCE&G has refused to provide responses and/or documents, and state specific reasons why SCE&G should respond further.

This ends the Hearing Officer's directive.